

48A C.J.S. Judges § 192

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

VII. Compensation and Fees

A. General Considerations

§ 192. Commissions and fees

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  22(12)

Although the rule is otherwise in the absence of statutory allowance of such fees, under some statutes, which must be strictly construed, the compensation of inferior judicial officers is to be paid in whole or in part in fees collected by them.

A judge is not entitled to retain any part of the fees collected by his or her office, for services rendered, where there is no express statutory allowance therefor.¹ However, by force of constitutional or statutory provision, the compensation of inferior judicial officers usually is paid in whole or in part in fees collected by them for official duties performed.² Where that is the case, the fees that a judicial officer may retain for his or her services are those fixed and limited by law.³

Where under the constitution the judge's salary is the full compensation to which the judge is entitled for all services rendered for or on account of his or her office, the legislature cannot provide otherwise.⁴ Where a statute requires local authorities to fix the salary of a judicial officer, to be paid monthly in lieu of fees theretofore received, such authorities are without power to discontinue the salary of a judge and place the compensation on a fee basis.⁵

Construction of statutes.

It has been held that statutes giving fees are to be construed strictly⁶ and are not to be extended by implication,⁷ but it has also been held that such statutes are directory only.⁸

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Footnotes

- 1 Colo.—Board of Com'rs of Park County v. Bullock, 122 Colo. 218, 220 P.2d 877 (1950).
Ill.—Grace v. Howlett, 51 Ill. 2d 478, 283 N.E.2d 474 (1972).
As to liability to penalty for taking illegal fees, see § 222.
- 2 Ala.—Swindle v. Long, 224 Ala. 55, 139 So. 87 (1932).
Tex.—Banks v. State, 362 S.W.2d 154 (Tex. Civ. App. Austin 1962), writ refused, (Feb. 6, 1963).
- 3 Fla.—Howard v. Davis, 139 So. 2d 463 (Fla. 1st DCA 1961).
La.—Boagni v. DeJean, 342 So. 2d 270 (La. Ct. App. 3d Cir. 1977), writ denied, 344 So. 2d 671 (La. 1977).
- 4 Ala.—England v. State, 240 Ala. 76, 197 So. 365 (1940).
S.D.—Burns v. Board of Deuel County Com'rs, 39 S.D. 426, 164 N.W. 1028 (1917).
- 5 Minn.—State ex rel. Child v. City of Waseca, 195 Minn. 266, 262 N.W. 633 (1935).
- 6 Fla.—State ex rel. May v. Fussell, 157 Fla. 55, 24 So. 2d 804 (1946).
- 7 Mo.—Smith v. Pettis County, 345 Mo. 839, 136 S.W.2d 282 (1940).
S.C.—Spartanburg County v. Pace, 204 S.C. 322, 29 S.E.2d 333 (1944).
- 8 Ga.—Cooper v. Lunsford, 203 Ga. 166, 45 S.E.2d 395 (1947).

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